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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,125	02/20/2002	Marc Francis Vincent Dussac	L7307.01120	8207

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EXAMINER

LAVINDER, JACK W

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/980,125

Applicant(s)

DUSSAC ET AL.

ES

Examiner

Jack W Lavinder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 8-11, 13, 14, 16-25, 27-37 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 12, 15, 26, 38 and 40-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Claims 8-11, 13, 14, 16-25, 27-37, and 39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the lack of unity requirement in Paper No. 14.

Applicant's election with traverse of claims 1-7, 12, 15, 26, 38, 40-43 in Paper No. 14 is acknowledged. The traversal is on the ground(s) that

- No unduly extensive or burdensome search would be required to examine the various claims of the noted groups
- Higher costs to the applicants for filing separate applications
- Inconvenience to the public by necessitating reference to more than one patent during searching

These arguments have not been found persuasive because there is additional searching required for the non-elected groups, which is not required for the elected invention. The large variety of species in this application would require at least the same number of additional subclasses to search in class 267. Also, some of the non-elected embodiments would require additional searching, such as class 244, which is in addition to the classes 267 and 188 required for the elected invention.

Higher costs to the applicants and inconvenience to the public in searching are not persuasive arguments for not requiring lack of unity. Although, the costs might be

higher and the search might be longer, these are the costs of following the rules established for governing the operations of the USPTO.

As long as it can be shown that there is no special technical feature common to the groups of claims lacking unity and there is a search burden on the office, then the lack of unity requirement is proper. Applicant has not argued that the groups in the requirement all have a common special technical feature. Therefore, the requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-7, 12, 15, 26 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe, 1,995,620 in view of Shtarkman, 4,504,044.

Regarding claims 1, 26 and 38, Monroe discloses a damping structure (figure 2) having an internal cavity filled with an aggregate of solid bodies (40) in contact with each other, a rigid plate (22) and an elastic means (20). Monroe does not explicitly disclose an internal cavity completely filled with solid bodies (40), i.e., figure 2 only shows the solid bodies (40) filling-up half of the internal cavity. However, Shtarkman discloses a damper having an internal cavity (66, figure 1) completely filled with solid

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bodies (68). Therefore, it would have been obvious to a person having ordinary skill in the art to modify the amount of solid bodies in the internal cavity of Monroe to include an internal cavity completely filled with the solid bodies as taught by Shtarkman. The motivation for completely filling the internal cavity of the damper with solid bodies is to improve and change the damping characteristics of the damper (i.e., increase the dampening effect of the damper).

Regarding claim 2, Monroe discloses an elongate structure with an internal cavity longitudinally inside of the elongate structure (figure 2).

Regarding claim 4, Monroe discloses compact (as broadly read) solid bodies (40).

Regarding claims 5-7, Monroe discloses using a single particle size shape and material. Shtarkman discloses that the particles can be made of a variety of different materials, sizes and shapes (column 4, lines 54-end, column 5, lines 1-6). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the solid bodies of Monroe to have a different size, shape or composition, as taught by Shtarkman, in order to improve the damping effects of the damper.

Regarding claim 12, Monroe discloses using particles with liquid in the internal cavity of the damper (page 2, column 2, lines 34-37).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe and Shtarkman as applied to claim 1 above, and further in view of Fukahori, 4,899,323.

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Monroe in view of Shtarkman fails to disclose hollow solid bodies. Fukahori discloses using hollow solid bodies (5, 6) in combination with solid bodies in a damper in order to tune the damp to function most efficiently at various vibration ranges. Therefore, it would have been obvious to a person having ordinary skill in the art to add hollow bodies to Monroe's damper as taught by Fukahori in order to tune the damper for various vibration ranges. Thus, making a more versatile damper without having to change the structure of the damper--only have to change the make-up of the solid bodies.

Claims 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mouille, 4,458,862 in view of Monroe. Mouille discloses dampers (24, figures 1 and 2) on a rotary wing aircraft gearbox (15, figures 1-2). Mouille discloses a damper in the form of a weight (24) and an elastic lever arm (19c figures 1 and 2 or 19d, figures 3 and 4). Mouille does not disclose a damper having an aggregate. Monroe discloses a damper having an aggregate as mentioned above. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to attach the damper of Monroe to the lever arm (19c or 19d) of Mouille to more effectively damp the vibrations of the gearbox.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication should be directed to Jack W
Lavinder at telephone number 703-308-3421.



Jack W Lavinder

SPE

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5/14/03